

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS
Case: 4:20-cv-00064-JM-JTK
APR 15 2021

JAMES W. McCORMACK, CLERK
By: ABU 2021 APR 15 A 9:17
DEP CLERK

Objections:

Reasons Why Proposed Finding and Recommendations to the Defendant's [68] Motion for Summary Judgment Should Not be granted: And Why None of the Plaintiff's Claims Should be dismissed...

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Objections to Document #78 and the genuine issue of Material Facts!! [Facts for Trial!!]

Reason Summary Judgment Should not

Be excepted, (And Why there should be a Jury Trial):

- 1) There are a Number of Disagreement in our Definition of the Words Examination and Treatment plan: (I got Neither One).
- 2) yes, I've made it plan that I have what is called degenerative Disc disease, and yes, I have Rods, pins, and screws in my back from Surgeries.
- 3) yes, I am a diabetic and I have what's called Neuropathy pain. That's why I was on 800mg of Gabapentin and Tramadol.
- 4) My Claim Should have never been flattened down by the defendant's lawyer, because I am Not Suing them for (June/July). I am Suing the defendants for Violation of my (5th/8th/14th) Amendments Rights. Also for the (ADA) Federal American With disabilities Act. (3) The denial of a Medical Examination.
- (4) The Violation of ADC policies.
- (5) I am Suing the Defendant's for (10) Grievances. I've had to file against the Mistreatment, the Discrimination against my disability. Failure to Diagnose and treat my Injuries, And So much More! I had Nothing to Work With to be Called Statement of Necessity until Now...

1-5.7.

The defendants, Estella Bland & Aaron M. Smith where at all times deliberately Indifferent to my serious medical needs. 1) They Both refused to Examine my Injuries; Neither defendant has (ever) look at my Body or touched my Injuries, at anytime in these past (two years) I've been Injured. Not even asked me if I could move my legs, Never even looked at my back where something is pushing against my skin! (The So Called treatment I got from these two defendants is Just like None treatment. I am so Very Sure that I have some Torn Knee. (I don't even to see her) Ligaments and something torn in both my legs but Both of the defendants denied me Any type of (Medical Examination) for my legs, my knee, and my Right Shoulder. Even though their both suppose to know that a providers deliberately failing to scheduling a Specialist Visit for two years is a Clear Violation and likely to Cause me permanent disability. The Courts has stated that an Unexplained delay of hours in treating a serious injury states a (Prima facie Case) of (Deliberate indifference). (Its been 2 years) Brown V. Hughes, 894 F.2d 1533, 1538 (11th Cir 1990) Benjamin V. Schwartz, 299 F. Supp.2d 196, 201 (SDNY 2004) Sulton V. Wright, 265 F. Supp 2d 292, 300 (S.D.N.Y 2003) Edwards V. Snyder, 478 F.3d 827, 832 (7th Cir 2007) Dominguez V. Correction Medical Services 555 F.3d 543 551 (6th Cir 2009) Deliberate Indifference

Facts

- 1) It's been two years since I had the first accident on May 21st 2019. And (10) or more Grievance's later, and I still have not gotten an Examination for my Injuries. Neither was I ever given any pain medication that eliminated the pain and suffering for even at least (temporarily). I've suffered in constant pain since the first accident on May 21st 2019, Estelle Bland had refused to even see me until June. I put in Sick Call Request on May 22nd and May 27th before I was even seen by Amy Jones. On May 29th, said I would see provider. I didn't see no provider... put in Sick Call June 3rd 2019 Nothing. Another June 6th 2019 No provider. Another one on June 16th 2019. This time I got to see The ADDON, Ms Austin on June 18th 2019 and she is the ONLY person to ever Examine my Injuries. She refused to see me...
- 2) With regards to Document (68) page (1) #4. I was referred to see the provider Bland after my first Sick Call visit with Amy Jones on May 29th. But Bland never called me. I put in ⁽²⁾ Sick Call on June 3rd Nothing. My next Sick Call was June 10th and yes Bland refused to get up and Examine my Injuries. I had waited (13 days) to see the provider and then she would do nothing for me. She lied saying that I would not participate with examination (See) Sick Call Doc # 70-1 page 3 of 13. Also Notice she did not give me anything for pain. That Hydrochlorothiazide Cap she ordered is a water pill not a pain pill. And that Naproxen Tab 220mg for 5 days did not eliminate my pain and suffering; Not even temporarily. Unnecessary pain, Plaintiff have an (8th) Amendment right to avoid pain caused by Deliberate Indifference.
Spruill v. Gillis, 372 F.3d 218, 236 (3rd Cir 2004)
Farrow v. West, 320 F.3d 1235, 1244-45 (11th Cir 2003)
Blackmore v. Kalamazoo County 390 F.3d 890, 899-900 (6th Cir 2004)
Johnson-El v. Schoemehl, 878 F.2d 1043, 1055 (8th Cir 1989)

- "Facts"
- (1) As far as the Hemorrhoidal Ointment goes that's was her thing, She like to keep me (begging her) every month to renew the prescribed Ointment. All other provider's and Doctor's would do an Examination on my Hemorrhoids then renew the Ointment for (2) three months at a time, But I could never get Amo Estelle Blands (OR) Aaron M. Smith to Examine any part of my Injuries, they did the same thing every time I saw them, they set at that Computer and listen (OR) talked non-sense to me and then put me out. Document 68, page 2 of 3 - #5 yes Ms Bland enjoyed my pain and suffering. She liked to show me that she was in control of weather I got pain Medication (OR) Hemorrhoidal Ointment (OR) Not When my pain med of Gabapentin 800mg ran out and needed to be renewed she laughed in my face and said (NO). She wanted to take it away when Doctor William P. Scott started me back on it but she knew she couldn't discontinue a medication that a doctor had prescribed for Neurological pains. (5) She just let it run out and refused to Reorder it.
 - (3) She did not care that it effected my daily Activities and is serious Medical need. Taylor V. Plousis, 101 F. Supp. 2d 255, 262 (D.N.J. 2000)
 - (4) The defendant's didn't care that I had lost function in my legs (OR) that the Inability to walk ~~was~~ is a condition that threatens my livelihood. (OR) That the loss of full function in my legs constituted a life long handicap (OR) a permanent loss. Koehl V. Dalheim, 85, F.3d 86, 88 (2nd Cir 1996)
 - (5) Even having a temporarily loss of function in legs, Inability to walk I shouldn't have been denied a Wheel Chair!
 - *To Deny Unnecessarily a Wheel Chair to Inmate who Obviously has an Injury and who lacks Mobility without it. Deliberate/Indifference Baker V. Blanchette, 186 F. Supp. 2d 100, 103 (D. Conn. 2000). Kaufman V. Carter, 952 F. Supp. 520, 527 (W.D. Mich. 1996) Pugliese V. Cuomo, 911 F. Supp. 58 (N.D.N.Y. 1996)

Document 68 Page 2 of 3 #6: (No I am Not, I Repeat)
(I am Not, Just Suing the two defendants for threatening to
discontinue the Gabapentin 800mg) Because I knew that
 She would not renew it once the prescription ran out. This
 woman has punished me every chance she has gotten since they
 sent me to Varner Unit in 2016. There was no allegedly nothing
 I knew she would stop the pain med the first chance she got and
 that would be once the prescription ran out: (Just like she did)--
 #7 Aaron Smith did promise me an X-Ray on my back twice
 but lied that he didn't make the promise (I've got witnesses
 to both incidences) but that's not the only reason I am suing
 him. He forced me to try and get around in a cell with the
 kind of walker you can not use, if you can't stand up.
He NEVER seen me stand because when he met me my
 legs had already stop working. (He) Aaron M. Smith came to
 my cell twice and he saw that I was not able to stand up so
 when I asked him for a shower chair and wheel chair he knew
 that I really needed it. He seen how (Nasty and filthy) I was
 and I seen it in his eyes, that the way I looked nasty as my
 cell were (he didn't want to touch me). I begged him both
 times for a shower chair and wheel chair each time he say
Well See. He had actual knowledge of the objectively and
 cruel condition I was in, he knew my serious need for
 medical help and the chairs, but he did not respond to
 a reasonable request. He did not examine me on any of
 the provider visits, Never tried to diagnosis any of my
injuries. *That's Medical Malpractice for No diagnosis
 resulting from failure to exercise ordinary knowledge, skill, and
 care, that constitute malpractice: Hudak V. Miller, 28 F. Supp. 2d 827, 832 (SDNY 1998)
Hatha Way V. Coughlin, 37 F.3d 63, 66 (2nd Cir 1994)

(Statement of Fact)

'Estella Bland and Aaron Smith', Both defendant (Denied me);

1) proper medical treatment for my Injuries, of Torn Tendons in my (left knee) and (leg). Sever Back pains that Causes (Numbness) in both legs and other body parts below the waistline. This is clear violation that Estella Bland gratuitous = Unnecessary (or) Unwarranted; Unjustified 21-Days Delay in treating my Injury States, a (Deliberate Indifference) Claim regardless of the adequacy of later treatment. But I Never got adequacy of treatment.

Spann V. Roper, 453 F. 3d 1007, 1008-09 (8th Cir 2006).

2) ~~Two hours delay for injury~~ Two hours delay for Injury.
Brown V. Hughes, 894 F.2d 1533, 1538 (11th Cir 1990).

States a prima facies case of Deliberate Indifference

3) Also Failure to provide Continuous and Effective Pain-Relief Medication for prisoners 'Known to have Severe Chronic Pain',
Lavender V. Lampert, 242 F. Supp.2d 821, 848 (D. Or. 2002)

Also Failure to Make (Timely referral to specialist) Deliberate Indifference
Lemarbe V. Wisneski, 266 F3d 429, 440 (6th Cir 2001)

Dominguez V. Corr Medical Service, 555 F.2d 543, 55 (6th Cir 2009)

Sulton V. Wright, 265 F. Supp. 2d 292, 300 (S. D. N. Y. 2003)

Deliberate Indifference

Document # 78-D Page 4 of 9 Declaration of Gary Kerstein
(He Said) According to the Records, a Non-party Sick Call Nurse saw the Plaintiff on May 30, 2019. (NO) She is a party to this case That's Ms Amy Jones and She is (or) Can be Called as a witness to many of the events that has taken place Over the past (2) years Concerning the "So Called" treatment that I have received from the defendant Dr. A. M. Smith Over the past (2) years and Also Estella Bland...

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Doc # 78-0 page 4

Facts

Doc # 70-1 pg 1 The Nurse noted that plaintiff ambulated well with a Walker and exhibited no signs of distress. That is said to be (Amy Jones ^{LPN}). Say she saw no signs of trauma to leg (or) bruising (or) marks. Well I am sure she didn't since she never examined me. See that's the part I see that they're all leaving out, I am fully dressed each and every time I leave my cell and go to sick call (or) provider call, and not once have any of them ask to see my injuries. I've tried to show them to Ms. bland and Mr. Smith (Many times) but they would simply look Annoyed (or) disturb by the way I looked (or) smelled. Remember I had not had a shower in days by this time! So how would she see trauma or bruising or marks if they never looked. (Now if you would please, let's jump up to the 18th of June 2019 when I was carried to Sick Call by (C) A. J. Burton and Ms. Gay (Scotts to Sick Call visit. This is when I meet ADDN-Ms Austin) the ONLY professional (Nurse) or "person" that I have ever in the years that I've been at this unit had the privilege to meet; she is the ONLY one who has ever Examined me!!! While she was talking to me and pulled up my pant leg to examine my knee and leg I looked up at Nurse Amy Jones, who set there like someone had slapped her face; she was so irritated by the fact that this ^{to} is this wonderful lady was doing her job the right ^{way} ~~way~~ was so overjoyed that someone had really taken the time to really look at my injuries, that I almost forgot where I was, I cried in a silent way and thanked (God)! Then Ms Austin turned to Amy Jones and told her to call Bland and tell her that I needed to be seen today! Amy Jones left out of that office to go make the call and Ms. Austin continued to examine my injuries my back and neck too. Then Amy Jones came back and said that Bland said (NO) she would not see me, and if I still had my knee brace

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to take it away from me; Send me back to my Cell to put my feet up. Ms. Austin looked like - what the hell just happened. I said to her - Thank you Ms Austin, I really appreciate you for your kindness and for caring. Then Amy Jones told the officers to take me back to my Cell... I really would beg the Courts to Call the ADON Ms Austin, Because she is the ONLY person to Ever Examen my Injuries: I Swear To God!
Willy J. Jones

Document # 78-0 page #5 Defendant Dr. A. M. Smith
 defendant Smith did not Examen me, ~~but~~ At any of the Medical Visits that I had with him and Amy Jones. Every time I saw Dr. Smith. Amy Jones was always with him, and always acted Irritated and in such a hurry to move on to the next stop. OR Maybe it was just that she didn't like being around someone who smelled of Urine/Musk. It had been a while since I had taken a Shower and that's why I asked for a Wheelchair and Shower Chair. But each time I went to see either of the defendant for provider Calls and Ask again and again for a Shower Chair and Wheel Chair I always got the same answer - NO and with no reason why NOT...
 Anyway Notice that Dr. Smith Says: June 21, 2019 plaintiff was in a Wheelchair OR Should I Say that Whom ever made Out Document # 78-0 Filed 03/16/2021 page 5 Said that the Plaintiff on June 21, 2019, was in a Wheel Chair? Which is Not true. Because I Did not get the Wheel Chair until Oct 25, 2019
 (See Exhibit W-1 page 105 of Document # 2-0 Filed Date: 1-15-2020;
 Now On that Friday, June 21st 2019 I saw Dr. Smith and yes I was in lots of pain (Just like I am in Right Now - in 2021.) I was in a Restraint Chair and yes I asked for a Shower Chair and I also asked for a Wheel Chair. → Now please explain to me (If you can) how is it that Dr. Smith seen all these problems going on with my Health and He NEVER Touched me OR Examined me?? How would he know if I had *Well-developed Musculature with No Sores(?) muscle
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"Facts"
 issues. ~~He~~ He concluded that plaintiff likely suffered from degenerative disease of his lumbar spine and Sciatica. These are all the things I told him while he sat in that chair at the Computer also reading my Medical file. If he had did any Examination on me on June 21st 2019 As he says he had, then he would have seen everything that ADON Ms. Austin seen when she did Examen me 3 days earlier, when she'd Examen me on June 18th 2019. (He lied in his Medical Report) He Never even looked at me, let alone Examen me, he lied... He lied about everything and Amy Jones lied on her Sick Call Report, she reported (Slight Swelling and hardness) on the phone to the defendant Estelle Bland on 6/18/2019. That was not what Ms Austin told her to say to Bland, she said tell her he has leg Swelling and disfigured ward knee. They never paid her any attention, they never cared what my medical health issues were, Bland only wanted to hurt me, make me pay for having her kicked off Tucker max grounds... she was humiliated, shamed, to be escorted off the compound by the Warden David White and officers, everyone knowing that she had been drunk on the job. I swear to God

Any way Dr. Smith and Estelle Bland never really gave it much thought to the Medical Reports that they were making out, because if they had they would have realized that their report would not match up to the truth. As a matter of fact (my left knee is still disfigured) And Smith never touched any part of me or my ankle/knee/shoulder these are all things I've told him was wrong with me. I was never evaluated for a wheel chair or shower chair because they never intended to let me use them. That is until Doctor William P. Scott of the Community Unit gave me one on 10-25-2019 and he also put me back on pain medication for my Neuropathy pain Gabapentin 800mg. Which the two defendant kept telling me that they would stop-discontinue if I complained about falling again. But me falling had nothing to do with it, Bland wanted me to suffer for what I had to do with her getting sent away from Tucker max Unit, pay back.

Facts

- 1) Dr. Aaron M. Smith Was New to the Job and he Mostly Just Relied on Whatever Bland Said about [US] prisoners: Any Way he Stayed too high on Drugs to Use his own OR to Exercise Ordinary Knowledge, Skills, and Care. (Constitute Malpractice.)
Coppage V. Mann, 906 F. Supp. 1025, 1040, 1049 (E.D. Va 1995)
Scicluna V. Wells, 345 F.3d 441, 996 (6th Cir 2003) / Medical Malpractice!
Hudak V. Miller, 28 F. Supp. 2d 827, 832 (S.D.N.Y. 1998)
- 2) The two Defendants Intended to Keep me in pain Without any medical Justification and the Sheer Number of Specific instances in which the defendants insisted on Continuing a Non-Treatment Course of treatment that they both knew were painful and ineffective, and entailed Substantial risk of serious harm to prisoners:
White V. Napoleon, 897 F.2d 103, 109 (3d Cir 1990) (Deliberate Indifference)
- 3) Inappropriate treatment and the denial of Wheel/Chair/ Shower Chair for no Valid Reason States a Deliberate Indifference Claim:
Parham V. Johnson, 126 F.3d 454, 457-58 n7 (3d Cir 1997)
- 4) Grossly incompetent and Recklessly Inadequate Examination by a licensed physician Deliberate Indifference
- 5) Plaintiff Should be permitted to Prove that treatment deviated so far from professional Standards that it amounted to Deliberate Indifference
Smith V. Jenkins, 919 F.2d 90, 93 (8th Cir 1990)
- 6) A Doctor Who knew that Diabetics are at risk for foot problems and they require prompt Care to prevent long term complications, but he waited Two days before he Examined a patient with Complaints of pain and discolored-disfigured skin on leg and he waited Seven more days before he referred patient to the appropriate Specialist (is) a Deliberately indifferent
Spencer V. Sheahan, 158 F. Supp. 2d 837, 849-50 (ND IN 2001)
- 7) Actual Knowledge Both defendants knew my Health Condition and they knew that I had a prescribed Medical Strip from Medical Doctors and a Surgeon, yet they

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Facts

Refused to Renew this Strip knowing that when a person don't get the prescribed Medical treatment, their health can and likely will be damaged. Both defendants knew this fact Deliberate Indifference
Farmer v. Brennan, 511 U.S. 825, 842-43, 114 S.Ct 1970 (1999)

8) Absence of Objective evidence of pain and suffering did not excuse a refusal to treat the problems, since (Self Reporting) is often the only indicator a Doctor has of a patient's condition of suffering.
Greeno v. Daley, 414 F.3d 645, 655 (7th Cir 2005)

9) Even without the policies (OR) no violation of policy, the policies are a evidence of the (defendants knowledge) of the risk inherent in these circumstances. Evidence of knowledge of the said injuries..
Meta v. Saiz, 427 F.3d 745, 757 (10th Cir 2005)

Bass v. Wallenstein, 769 F.2d 1123, 1184-86 (7th Cir 1985)

10) Failure to treat inmates worsening pains is - Deliberate Indifference
Stewart v. Murphy 174 F.3d 530, 535 (5th Cir 1999)
Perkins v. Kansas Dept of Corr, 165 F.3d 803, 811 (10th Cir 1999)

11) The Denial (OR) Delay of Access to a doctor capable of assessing the need for post operative treatment is a Constitutional Claim.

West v. Kere, 571 F.2d 158, 162 (3d Cir 1978) Deprivation of medical attention for (3) three days Robinson v. Moreland, 655 F.2d 882, 889-90 (8th Cir 1981). Hurst v. Phelps, 579 F.2d 990, 941-42 (5th Cir 1978). Alsinar-Ortiz v. Laboy, 400 F.3d 77, 83, 1st Cir 2005

12) The Seriousness of Injury, Reasonable Doctor (OR) patient would find important enough and worthy of comment and treatment, supports a finding of serious medical need. Hemorrhoids McBuckin v. Smith, 974 F.2d 1050, 1059-60 (9th Cir 1992). Henderson v. Harris, 672 F.Supp. 1054, 1056, 1059 (V.D. Ill. 1987)
Davis v. Jones, 936 F.2d 971, 972 (7th Cir 1991)

^{"Facts"}
Now if you would, let's take a look at Gary R. Kerstein's
(Declaration). He states that he is a doctor of Osteopathic (PR)

Osteopathy = A system of medicine based on the theory that disturbances
(Doc # 72-2) in the musculoskeletal system affects other bodily parts, causing
page 1 of 7 disorders that can be corrected by various manipulative techniques
in conjunction with conventional therapeutic procedures.

Musculoskeletal = Relating to or involving the Muscles and the Skeleton.
~~I've Never gotten any Therapy!~~

Now you tell me why would a Doctor of (Osteopathic) agree with treatment
such as I've been given unless that's what he has been hired to do, agree with them
(OR is it that he just don't know the truth!!) Mr. Kerstein has a habit of saying
Quot: I have been informed Well he has been informed wrong, these Medical
Records are made up (lies). Estelle Bland & Aaron M. Smith has Never ever

Given me an EXAMINATION, Never have the defendants looked at my injuries,
Nor have either of the defendants touched any of my injuries! He is
only repeating what they have written in their reports, which is all lies...

Then he says: He is suing Bland for her decisions on (June 10 and June 18)
and allegedly threatening to discontinue his Cabin Pentia...

The same saying: But I am sitting here right now in a wheel chair that I
with Smith Wish I could get up and walk away from. This (Kerstein)
fellow is basing his opinions on what he has read in their med records.

There are too many lies to contend with But one fact to be believed is
Security is witness and I do wish to call them as witness. The
difficulties I've gone through these past (6) years with Blands is

Mind blowing at the least.

1) Both defendants acted with deliberate indifference to a serious
Medical need: Prison physicians are entitled to exercise their
Medical Judgment How can you make a judgment on prisoner's
you have NEVER given an examination to a person you have
never touched - OR - Never seen what color his skin is under
his clothes? All I've ever asked for was a Medical Exam!!

The only person to ever examine my injuries was the
ADON Ms. Austin The Only One, The Only Other
Who examine my feet and left leg was Dr. William P.

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Scott 10/25/2019

Facts

The Doctor Who gave me this wheelchair to get me up off this rusty concrete floor, Giving me Mobility.

Failure to physically Examine a patient is a Deliberately Indifference. Where the prisoner was NEVER touched, that's not an Examination.

And if you're trying to help and not hurt a prisoner why would you take away a prescribed Medical Medical Restriction Stript that provided the Inmate protection against further Injury?

The taking away of that Medical Restrictions/Limitation/Special Authorization's Stript, was punishment, when all the defendants had to do was sign their name on a piece of paper that would have saved the plaintiff a lot of years of pain and suffering and further injuries. Bland couldn't wait to see that the Stript had ran out on the knee brace, to take it away also. (1) Confiscation of a prescribed back brace/knee brace (2) To take away Stript for low tier/low bunk and (3) To take away a Double Mattress Stript (4) Soft Shoe Stript. This was all done to punish the plaintiff and states a Claim Deliberately Indifference.

Jones V. Evans, 544 F. Supp. 769, 774-76 (N.D. Ga 1982)

McCorkle V. Walker, 871 F. Supp. 555, 559 (N.D.N.Y 1995)

Hamilton V. Endell 981 F. 2d 1063, 1066-67 (9th Cir 1992)

1) Failure to physically Examine patient is a deliberate indifference

Doctor Never touched patient, Was not an Examination:

Seals V. Shah, 145 F. Supp. 2d 1378, 1385 (N.D. Ga 2001)

Williams V. Patel, 104 F. Supp. 2d 989, 987 (C.D. Ill 2000)

2) physician failed to diagnose broken hip, refused to order (X-Ray) and prevented prisoner from seeing - other Doctors (OR) Specialist...

Mandel V. Doe, 888 F. 2d 783, 789-90 (11th Cir 1989)

3) Failed to - No refused to Send prisoner with symptoms of Tendon ruptured to a Specialist Constituted Deliberate indifference

Hemmings V. Garczyk 134 F. 3d 104, 109 (2d Cir 1998)

Hayes V. Snyder, 546 F. 3d 516, 526 (7th Cir 2008)

Williams V. Liefer 491 F. 3d 210, 214-15 (7th Cir 2007)

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Fact

The ADA say that the Standard applied Under the Title V of the Rehabilitation Act of 1973 (29 USC. 790 et seq) OR Federal agencies pursuant to title 42 USC. 12201(a). This means that the ADA has to provide as good an outcome as the Rehabilitation Act, But in theory it may provide a better one! The Eighth Amendment forbids exposure of prisoners to conditions that pose an Unreasonable risk of serious damage to their future health.

1) I've been treated like a broke back dog by the two defendants since the very beginning - of my accident May 21st 2019.

Yeskey V. Penn. Dept of Cor. 118 F.3d 168, 170, 71 (3d Cir 1997)

add. 524 U.S. 206, 118 S.Ct. 1952 (1998)

Onishea V. Hopper, 171 F.3d 1289, 1301-04 (11th Cir 1999)

2) The ADA shall not be construed to apply a lesser standard than is applied under the Rehabilitation Act, and its Regulations, 28 C.F.R. § 35.103. So you will have to compare the ADA Regulations 28 C.F.R. part 35 to the Rehabilitation Act Regulation, which are in the Code of Fed Regulation: (Health and Human Services) are in 45 C.F.R. part 84.

(Justice Regulation) are in 28 C.F.R. part 42.501 et seq

(Education Reg) are in 34 C.F.R. part 104

3) Americans With Disabilities Act - Reflex on degree, Contemporary Standards of Decency Concerning treatment of individuals with disabilities. Gonyer V. McDonald, 874 F.Supp. 964, 966 (D. Mass. 1995)

Morales Feliciano V. Romero Barcdo, 672 F.Supp. 591, 617-19 (D. PR 1996)

4) I've been denied the chance of Rehabilitation Therapy for 2 years now.

Parrish V. Johnson, 800 F.2d 600, 605 (6th Cir 1986)

Deprived of a Wheel Chair and Shower Chair

Kaufman V. Carter, 952 F. Supp. 520, 526 (W.D. Mich 1996)

Ruiz V. Estelle, 503 F. Supp. at 1346

Brown V. State 392 So 2d 113, 114-15 (La App. 1980)

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Facts

1) The defendant's Denied Me the Basic Human Needs, deprived Me of my dignity - Sanitary Condition a Condition that persisted Over a long period of time; denied Use of toilet dehumanizing prison Condition.

(A) I Was denied a (Wheel Chair) for 124 days on the floor:

(B) I Was denied a (Shower Chair) for 397 days until I broke out On my Body With Sores and Boils. (No Shower):

(C) I Was deprived of a (Handicapped Cell) 277 days,

(D) Denied A (Medical Examination) (2) two years for my Injuries:

(E) Denied (Continue pain medication): Period

(F) Denied (Orthopedics OR Neuro Surgeon) Visit - Consultation:

(G) Denied (X-Ray's) On My Hip, left Knee, and Right Shoulder: 2 years

2) The Humiliation and Mental Stress, the General pain and Suffering; the Nature, and the extent and duration of the injuries to my Body and mind.

3) When all I've ever asked for is a (Medical Examination) to be treated with a little (human dignity) (Continue pain medication) and a Consultation with a Specialist; And my (Basic Human Needs) to be met by Medical dept:

4) Instead I've been treated like a Wounded Animal with an broken back, Deprived of Human needs, medical and mental help for my serious medical Needs: (A) Wilson V. Weber, 501 U.S. 294, 298, 111 S.Ct 2321 (1991)

(B) Farmer V. Brennan, 511 U.S. 825, 834, 114 S.Ct 1970 (1994)

5) Conditions of Unnecessary and Wanton infliction of pain, (Also) the deprivation of life's necessities. pain that causing deprivation of my Sleep and Mental balance; personal Hygiene, Shower & (Wheel) chair: Mobility:

(A) Rhodes V. Chapman, 452 U.S. 337, 347, 101 S.Ct 2392 (1981)

(B) Helling V. McKinney, 509 U.S. 25, 32, 113 S.Ct 2475 (1993)

(C) Palmer V. Johnson 193 F.3d 346, 352 (5th Cir 1999)

(D) Novak V. Beto, 453 F.2d 661, 665 (5th Cir 1971)

(E) Carter V. Bunch, 946 F.2d 451, 452 (6th Cir 1991)

(F) Hoptowitz V. Roy, 682 F.2d 1237, 1246 (9th Cir 1982)

Facts

(Expert - testimonies)

To reject my expert testimony ^(my) or even the idea that experts testimony about what a competent doctor would know can/will establish what a particular defendant did know: 9th Amendment Claim and deliberate indifference standard requires only that these two defendants had Actual knowledge that a medical doctor did prescribe me that medical strip and pain medication. But when a prescribed special strip and treatment is not followed the person/prisoner future health can and will be damaged. There is no excuse for refusing an inmate an examination before discontinuing a (prescribed treatment plan) (prescribed medical special strip) or to refuse the inmate any kind of treatment, since Self reporting is often the only indicator a doctor/nurse/physician/or medical provider has of a patient's condition. (A) Greeno v. Daley, 414 F.3d 695, 655 (7th Cir 2005). (B) Farmer v. Brennan, 511 U.S. 825, 842-43, 114 S.Ct. 1970 (1994)

Also the policies is evidence of the defendants knowledge of the risks inherent in circumstances of a fall for someone who is high risk of serious damage to their future health... which is evidence that staff, doctors, and nurse's are deliberately indifferent if they knowingly continue a pattern of culpable failure of complaints and manifest symptoms of pain, failure to treat worsening pain, deliberate indifference:

- (A) Stewart v. Murphy 174 F.3d 530, 535 (5th Cir 1999)
- (B) Perkins v. Kansas Dept. of Corr, 165 F.3d 803, 811 (10th Cir 1999)
- (C) Alsina-Ortiz v. Laboy, 400 F.3d 77, 81-82 (1st Cir 2005)
- (D) Spencer v. Sheahan, 158 F Supp. 2d 837, 849-50 (N.D.Ill. 2001)
- (E) Farmer v. Brennan, 511 U.S. 825, 842-43, 114 S.Ct. 1970 (1994)
- (F) Lavender v. Lampert, 242 F. Supp. 2d 821, 843 (D.Or. 2002)
- (G) Sulton v. Wright, 265 F. Supp. 2d 292, 300 (S.D.N.Y. 2003)

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Facts!

The Denial of ~~20~~ Therapy - Physical Therapy.

(A) Wheel Chair (B) Accessible Shower/Shower Chair (C) Handicapped-Cell (D) Denial of Low tier/Low Bunk (E) Discrimination against my disabilities. These Are ADA Claims!

* Denied Mobility, Wade V. Westville Corr Center, 103 F.3d 558 (1996)

2) Naved V. Maloney, 172 F.Supp.2d 276, 283 (D. Mass 2001)

3) Becker V. Oregon, 170 F.Supp.2d 1061, 1068-69 (D. Ore 2001)

4) Schmidt V. Odell, 64 F.Supp.2d 1014, 1033 (D. Kan. 1999)

5) Beckford V. Irvin, 49 F.Supp.2d 170, 181 (W.D.N.Y. 1999)

* Discrimination Prisoners have the same interest in access to the use of programs, services and activities available to other inmates of their prison. As Disabled (people on the outside have to there counterpart programs, service, equipment activities that available to free people).

1) Harris V. Thygesen, 941 F.3d 1495, 1522 (11th Cir 1991)

2) Rehabilitation Act, Bonner V. Lewis 857 F.2d 559 (9th Cir 1988)

3) Pierce V. County of Orange, 526 F.3d 1190, 1217-23, 1226 (9th Cir 2008)

The Federal disability Statutes, Federal ADA and Section 504 of the Rehabilitation Act Applies to prisoners. 42 U.S.C. § 12101 et seq -

29 U.S.C. § 794

1) Pennsylvania Dept. of Corr V. Yeskey, 524 U.S. 206, 118 S.Ct 1952 (1998)

2) Crawford V. Indiana Dept. of Corr 115 F.3d 481, 486 (7th Cir 1997).

I also have a (Infected) (Pilonidal Cyst) that I could not get treated for. Defendants wouldn't even look at it. Delay in Treatment (8th Amendment) (Delay)

1) Cooper V. Casey 97 F.3d 914, 916-17 (7th Cir 1996) (Delay)

Delay in treatment of Medical Condition could cause life long Handicaps (N) Permanent loss (N) Disability.

1) Gutierrez V. Petels, 111 F.3d 1364, 1371 (7th Cir 1997)

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Facts

Americans With Disabilities Act, Reflex on degree, Contemporary Standard of Decency Concerning treatment of individuals with a Disability. 1) *Conyer v. McDonald*, 874 F. Supp. 464, 466 (D. Mass. 1995)

2) *Morales Feliciano v. Romera Barcelo*, 672 F. Supp. 591, 617-17 (D. Pr. 1986)

Sanitary Conditions Any Condition that persists over an extended period of time — is an Eighth Amendment Violation:

1) *Patchette v. Nix*, 982 F.2d 158, 164 (8th Cir 1991)

2) *Howard v. Adkison*, 887 F.2d 134, 137 (8th Cir 1989)

3) *Harris v. Fleming*, 839 F.2d 1232, 1234-35 (7th Cir 1988)

Constitutional Protections Under 8th Amendment Prison Must Meet Medical Needs of Inmates with Disabilities and Furnish the Assistance that they require in order to live a minimally Decent life in prison. Inhumane treatment

1) *Bradley v. Puckett*, 157 F.3d 1022, 1025-26 (5th Cir 1998)

Denial of Shower Chair — for two months / Wheel Chair

1) *Simmons v. Cook*, 154 F.3d 805, 808 (8th Cir 1998)

2) *Hicks v. Frey*, 992 F.2d 1450, 1456-57 (6th Cir 1993)

3) *Leach v. Shelby County Sheriff*, 891 F.2d 1241, 1243-44 (6th Cir 1988)

Double Mattress Strip

1) *LaFaut v. Smith*, 834 F.2d 389, 392-94 (4th Cir 1987)

Deprivation of Rehabilitation Therapy

1) *Parrish v. Johnson*, 800 F.2d 600, 605 (6th Cir 1986)

2) *Ruiz v. Estrella*, 503 F. Supp. at 1346

3) *Brown v. State*, 392 So 2d 113, 114-15 (Ga. App. 1980)

4) *Hautman v. Carter*, 952 F. Supp. 520, 526 (W.D. Mich 1996)

5) *Casey v. Lewis*, 834 F. Supp. 1569, 1581 (D. Ariz 1993)

Facts

*The denial of (physical therapy) for Injuries held Serious Medical Condition OR Pre-Existing (8th amendment claim)

- 1) Tillery V. Owens, 719 F. Supp. 1256, 1286 (E.D. Pa. 1989)
- 2) Hathaway V. Coughlin, 37 F. 3d 63, 66 (2d Cir 1994) Degeneration!
- 3) Nance V. Kelly, 912 F.2d 605, 607 (2d Cir 1990) Extreme Pain!
- 4) Hill V. Algor, 85 F. Supp. 2d 391, 410 (D.N.J. 2000) Nerve damage!

*Failure to provide "leg-knee brace" was Actionable - Knee Brace!

- 1) Brock V. Wright, 375 F. 3d 158, 162 (2d Cir 2003)

*Medical Malpractice [A misdiagnosis OR Non diagnosis resulting from failure to exercise Ordinary Knowledge, Skill, and Care Constitute Malpractice.]

- 1) Coppage V. Mann, 906 F. Supp. 1025, 1040, 1049 E.D. Va. 1995
- 2) Scicluna V. Wells, 345 F. 3d 441, 446 (6th Cir 2003)
- 3) Hadak V. Miller, 28 F. Supp. 2d 827, 832 (E.D.N.Y. 1998)

*Denied prescribed Continued treatment - Without Examination:

- 1) Conn V. City of Reno, 572 F.3d 1047, 1056 (9th Cir 2009)
- 2) Farmer V. Brennan, 511 U.S. 825, 842-43, 114 S.Ct. 1970 (1999)

*Diabetes Making Injuries Worse, More Serious Medical Negl:

- 1) Ruffin V. Deperio, 97 F. Supp. 2d 346, 351-52 (W.D.N.Y. 2000)
- 2) Woulard V. Food Service 294 F. Supp. 2d 586, 604 (D. Del. 2003)

*Neurological Disorder AND Serious Back pains

- 1) Gil V. Vogilano, 231 F. Supp. 2d 486, 492 (S.D.N.Y. 2001)
- 2) Baker V. Blanchette, 186 F. Supp. 2d 100, 103 (D. Conn. 2001)
- 3) Higgins V. Corr. Medical Services of Ill. 178 F. 3d 508, 511 (7th Cir 1999)

*Hemorrhoids (With) Infected Cyst like I've got Now!

- 1) Jones V. Natesha, 151 F. Supp. 2d 938, 944 (N.D. Ill. 2001)
- 2) Hathaway V. Coughlin, 37 F. 3d 63, 66 (2d Cir 1994)
- 3) Wolfe V. Ferguson. 689 F. Supp. 756, 759 (S.D. Ohio 1987)

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Facts

* Deprivation of Wheelchair failure to provide access to Shower and Recreation ^{3rd} Reasonable accommodation:

- 1) Saunders V. Horn, 959 F. Supp. 689, 698 (E.D. Pa. 1996)
- 2) Henrietta D. V. Bloomberg, 331 F.3d 261, 276-77 (2d Cir 2003)
- 3) Scott V. Garcia, 370 F. Supp. 2d 1056, 1074-75 (S.D. Cal 2005)

* Shower Denial Ended up With Bed Sores and Bails!!!

- 1) Walker V. Mintzes, 771 F.2d 920, 928-29 (6th Cir 1985)
- 2) Preston V. Thompson, 589 F.2d 300, 308 (7th Cir 1978)
- 3) Surprenant V. Rivas, 424 F.3d 5, 19-20 (1st Cir 2005)
- 4) Young V. Quinlan, 960 F.2d 351, 365 (3d Cir 1992)

* Deliberate Indifference The Supreme Court has stated that (Deli-Indiff) to serious medical need of prisoner constitutes the Unnecessary and Wanton infliction of pain and suffering (8th Cir 1997) (Amendment) (claim)

- 1) Erickson V. Pardus, 551 U.S. 89, 94, 127, S.Ct 2197 (2007)

* To Stop Inmate Pain Medication Nero pain

- 1) Martinez V. Beggs, 563 F.3d 1082, 1088 (10th Cir 2009)
- 2) CUOCO V. Moritsugu, 222 F.3d 99, 106-07 (2d Cir 2000)
- 3) Estate of Cole by pardue V. Fromm, 94 F.3d 254, 261-62 (7th Cir 1996)
- 4) Youngberg V. Romeo, 457, U.S. 307, 323, 102 S.Ct 2452 (1981)

* Denial of a handicapped Cell Shelter: A prison must provide Shelter that does not cause prisoner degeneration (or) threaten their (Mental (or) physical) degeneration: 8th Amendment Violation...

- 1) Ramos V. Lamm, 639 F.2d 559, 569 (10th Cir 1980)
- 2) Carty V. Farrelly, 957 F. Supp. 727, 736 (D.V.I. 1997)
- 3) Comminges V. Roberts, 628 F.2d 1063, 1068 (8th Cir 1980)
- 4) Hallett V. New York State Dept., 109 F. Supp 2d 196 (S.D.N.Y. 2000)

Facts* (5) Month Deprivation of Wheel Chair:

1) Taylor V. Pleusis, 101 F. Supp. 2d 255, 261 (D.N.J. 2000)

* (2) Month Deprivation of Wheel Chair:

1) Mullen V. Smith, 738 F. 2d 317, 318 (8th Cir 1984)

* Denial of Wheel Chair and Shower Chair and Physical Therapy:

1) Beckford V. Irvin, 49 F. Supp. 2d 170-182-83 (W.D.N.Y. 1999)

* Denial of Wheel Chair to Someone Who Obviously has an Injury: an lacked Mobility Without it (that's) Deliberate Indifference to Serious Medical need:

1) Navedo V. Maloney, 172 F. Supp. 2d 276, 284 (D. Mass 2001)

2) Lavender V. Lampert, 242 F. Supp. 2d 82, 843, 849 (D. Or. 2002)

* Serious Back and leg Injuries (is) 8th Amendment Claim:

1) Johnson V. Hardin County, Kay, 908 F. 2d 1280, 1284 (6th Cir 1990)

* Orthopedic Shoes Denial - 8th Amendment Claim:

1) Hemmings V. Gorczyk, 134 F. 3d 104, 108 (2d Cir 1998)

* Constitute Malpractice

1) Hudak V. Miller, 28 F. Supp. 2d 827, 832 (S.D.N.Y. 1998)

2) Lemarbe V. Wisneski, 266 F. 3d 429, 440 (6th Cir 2001)

3) Campbell V. Sikes, 169 F. 3d 1353, 1368-73 (11th Cir 1999)

4) Molton V. City of Cleveland, 839 F. 2d 240, 242-43 (6th Cir 1988)

5) Boring V. Kozakiewicz, 833 F. 2d 468, 471-73 (3d Cir 1987)

6) CuoCo V. Moritsugu, 222 F. 3d 99, 106-07 (2d Cir 2000)